

REMARKS

Claims 1-17 stand rejected as anticipated over Gray '155. While claims 1-4, 7, 8 and 10-15 are rejected as obvious over Millasich '242 in view of Martin '778. While claims 1, 5, 9, 12, 13, 16 and 17 are rejected as obvious over Millasich in view of Brennan '151 and further review of Martin '778.

The present invention as characterized in newly entered claims 20 and 21, provides a waste bag holder system comprising an inner liner having apertures starting proximate to the upper rim of the liner with the liner fitting into a tubular support frame. Within the support frame an air pump is provided which upon activation draws air from the space between the liner and the holder in order to draw the bag down fully into the liner opening it to its maximum holding capacity.

In the waste disposal area where the waste disposed may have biologic contamination or just involve multiple people in a difficult home environment some of which may have germs on their hands, it is best to not force those wishing to dispose of waste to have to push already present waste in the liner bag down in order to make space for new waste thereby possibly contacting the hand of the user with germs or other contaminants already in the

receptacle. The present invention provides a system for expanding the waste bag to its full possible dimensions within the liner.

In actual use, as shown by the video identified as Video 1 submitted to the Examiner's mail site, this positioning of the apertures from the top down in the liner works remarkably well to initially expand the trash bag against the opening area of the liner thereby frictionally holding it and preventing it from being from being dragged down into the bottom of the liner as the bag is expanded under the flow of air from the space between the liner and the cylindrical holder.

By contrast, the Gray reference, the only reference provided by the Examiner having a trash receptacle with a liner and surrounding holder with an air withdrawal means, withdraws the air only at the bottom of the liner. What is surprising and as shown in the e-mail Video 2, is that in such a situation the bag is actually dragged down below the rim of the liner because air is withdrawn from the bottom rather than from the sides as in the invention. Withdrawing it from the sides near the top opening in combination with other spaces, initially forces the disposal bag against the edge of the liner pinning it there under friction and preventing the bag from being drawn into the liner and thereby preventing it from being properly positioned. Claims 20 and 21 as

written thus completely distinguish over Gray on the basis of novelty and given this surprising result also provide unobviousness.

The Examiner further uses Brennan, Millasich and Martin in various combinations of obviousness rejections. The only trash receptacle system is that of Brennan which does not have an air pump but merely an air freshener in the bottom of a linerless holder so that when the bag is taken out, air from the outside is drawn through the freshener helping to reduce the effect of any odor that may have crept into the holder. The Millasich art is for a paint holder bucket and also lacks a liner or a pump means. Millasich only has an air evacuation pit or hole at the bottom of the bag holder and paint is of such weight that it completely forces the bag down to conform to the dimensions of the holder 11. Martin is itself a trash container with apertures which is represented to allow the bag to unfold within the apertured holder as trash is deposited. While that may be effective for heavy trash, lighter, paper-based trash or plastic-based trash would not have sufficient weight to expand the bag without pushing creating the danger which the present invention totally avoids. Again, Martin fails to have an apertured liner within a holder and means to force evacuation.

All of the art cited, Brennan, Millasich and Martin, for purposes of the obviousness rejection are complete systems in and of themselves and they each would have to be completely re-engineered to put together the bits and pieces in different combinations without any teaching, suggestion or motivation to do so. It would, for example, make no sense to employ a liner within the bucket 11 of Millasich to hold the paint since in fact Millasich's function is just the opposite rather than to fill a container with waste it is rather to remove paint from the container as it is used. Brennan solely functions to provide an air freshener system and adding an apertured cylinder of Martin in Brennan would simply add more surfaces to be decontaminated with the air freshener and there would be thus no purpose whatsoever to combine them. The teaching of Martin further would not suggest or motivate any combining of its apertured cylinder with an exterior holder as such would only impede the functioning of the apertures and add expense to the system of Gray to place apertures throughout the entire liner surface.

In view of the above amendments and arguments as well as the accompanying demonstration of the effectiveness of the present invention over the art of record, it is submitted that the application has fully established its patentability and such

Application No. 10/822,928  
Filed: April 13, 2004  
TC Art Unit: 3781  
Confirmation No.: 4439

action is requested. Examiner is encouraged to contact the undersigned to work out any differences which may be seen as impeding the allowance of this application.

Respectfully submitted,

ROCK A. GAGNEBIN

Date: 1-9-2009

By: /Charles L. Gagnebin III/  
Charles L. Gagnebin III  
Registration No. 25,467  
Attorney for Applicant(s)

WEINGARTEN, SCHURGIN,  
GAGNEBIN & LEBOVICI LLP  
Ten Post Office Square  
Boston, MA 02109  
Telephone: (617) 542-2290  
Telecopier: (617) 451-0313

CLG/dkh/374502.1